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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/696,446

10/24/2000

Carey B. Fan

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3917

7590

04/21/2006

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EXAMINER

ZAND, KAMBIZ

ART UNIT

PAPER NUMBER

2132

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/696,446	<b>Applicant(s)</b> FAN ET AL.	
	<b>Examiner</b> Kambiz Zand	<b>Art Unit</b> 2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-6,8,9 and 11-30 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-6,8,9 and 11-30 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.


#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 24 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
KAMBIZ ZAND  
PRIMARY EXAMINER

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this section can be found in the prior office action.
2. The prior office actions are incorporated herein by reference. In particular, the observations with respect to claim language, and response to previously presented arguments.
3. Claims 7 and 10 have been cancelled.
4. Claims 1-6, 8, 9 and 11-30 are pending.

### ***Response to Arguments***

5. Applicant's arguments filed 03/03/2006 have been fully considered but they are not persuasive for the following reasons:
  - a) **Functionality:** as long as the prior art teach the functionality of a process, where such functionality is being executed, then where such execution of the process is being done is irrelevant (in this case, appending the stamp location in the payload or header of a message makes no difference since the prior art do disclose such functionality on fig.4 and as applicant has also admitted in the arguments). Please also see a recitation directed to the manner in which a claimed apparatus is intended to be used does not distinguish the claimed apparatus from the prior art if prior art has the capability to do so perform (See MPEP 2114 and Ex Parte Masham, 2 USPQ2d 1647 (1987)). The prior art is replete with references disclosing appending location stamp by GPS technology to the message.
  - b) In response to applicant's argument that Prior art disclose the stamp location in payload of the message and not the header of the message, a recitation of the intended use of the claimed invention must result in a

structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

- c) Applicant's arguments are not based on the essential element of the Applicant's invention. For example if having location stamp in the header is an inventive step over the prior art which teach the same functionality as pointed above, but is an inventive steps because result in different structure over the prior art and result in an improvement, then such differences must be specifically be present in the language of the claim and support for such differences should be clearly present in the specification.

Therefore applicant's arguments are not persuasive based on the above reasons.

***Claim Rejections - 35 USC § 102***

6. **Claims 1-6, 8-9, 11, 15-25, and 29-30** are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Patent No. 6,456,854 B1 to Chern et al.

**In regards to claims 1 and 17**, Chern discloses a method and system from tracking mobile telephone devices (column 1 line 57-59). Chern discloses that when a user requests information the hand set provides the location of the handset to the server

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(column 4, lines 47-48). This meets the limitation of "generating a message from a mobile device, the message having significance independent of reporting a geographical location of the mobile device', and attaching to an overhead portion of the message an automatically generated location stamp indicating the geographical location of the mobile device as an origin of the message."

Referring to the limitation "attaching to an overhead portion of the message..."

Chern inherently teaches including the location information in the header of the message because Chern teaches sending the messages with the location included in it (see Figs. 4-6).

**In regards to claim 2, 3, 18 and 20**, Chern discloses the system uses a GPS which determines location in terms of parameters such as latitude, and longitude (Chern: column 4, lines 23-29).

**In regards to claim 4**, Chern discloses an application, which provides driving directions to the user (Chern: column 4, lines 57-67).

**In regards to claims 5, 6, 21, and 22**, Chern discloses the user request the business or service type vocally or via keypad entry (see column 5, lines 13-14).

**In regards to claims 8 and 23**, Chern discloses "the handset user requests driving directions to the destination, and the handset relays the requests to the server" (see

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column 4, lines 58-60).

**In regards to claims 9, 19, and 24**, Chern discloses a mobile telephone (Chern: column 1, lines 57-59).

**In regards to claim 11 and 25**, Chern teaches that the user may set a location filter, for example, that requires returned selections be within a certain maximum number of miles of the user's current location (see column 5, lines 20-23).

**In regards to claim 15 and 29**, the web server validates a user name and password (see column 6, lines 60-67).

**In regards to claims 16 and 30**, Chern discloses a first receiver at the web server that receives the GPS location information from the mobile unit and the recorder which stores the latitude and longitude information received from the mobile unit. The Browser device connects the to web server and accepts the transmission f the GPS information from a second receiver. The displayer presents the GPS information on the display of the browser device (Chern: column 8, lines 21-42).

### ***Claim Rejections - 35 USC § 103***

**7. Claims 12-14, and 26-28** are rejected under 35 U.S.C. 103(a) as being

unpatentable over U.S. Patent No 6,456,854 B1 to Chern et al as applied to claim 1-6, 8-9, 11 , 15-25, and 29-30 above, and further in view of U.S. Patent No.6,067,529 to Ray et al.

Chern discloses a method and system from tracking mobile telephone devices (Chern: column 1 line 57-59). Chern discloses that when a user requests information the hand set provides the location of the handset to the server (Chern: column 4, lines 47-48). Chern, however, does not disclose "wherein the action is a delivery," "a charge to an account," or "the charge is a credit card charge."

Referring to the instant claims, Ray teaches that when a consumer makes a purchase, the sales terminal can generate a short message along with the detailed purchase information (see Abstract). A menu can be displayed on the phone and the consumer can select the desired credit card number and request a receipt. The credit card number can be sent along with the transport address or alias address to the sales terminal for authorization of the credit card number (Ray: column 3, lines 52-67, column 4, lines 1-14).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the method of sending a location identifier with a request from a mobile phone as disclosed in Chern with the method of sending a credit card number across a mobile phone as disclosed in Ray. One of ordinary skill in the art would have been motivated to combine the method of sending a location identifier with a request from a mobile phone as disclosed in

Chern with the method of sending a credit card number across a mobile phone as taught in Ray in order to provide substantially immediate purchase information to consumers in a paper-less environment (see Ray column 2, lines 5-7).

### **Conclusion**

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kambiz Zand whose telephone number is (571) 272-3811. The examiner can normally be reached on Monday-Thursday (8:00-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (571) 272-3799. The fax phone numbers for the organization where this application or proceeding is assigned as



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571-272-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
KAMBIZ ZAND  
PRIMARY EXAMINER

04/18/2006

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